

LAW RELATING TO PATENTS.

No. 12, June 20th, 1923.

§ 1.

Patents should be granted in respect of inventions which will be utilized in industry or if their manufacture may be run as an industry. — No Patents may, however, be granted for: — 1. Inventions which cannot be considered to be of real importance; 2. Inventions, the use of which contradicts Law, morality or public order; 3. New medicines, consuming matter and drugs (yet the process of making such matters may be patented); 4. Inventions which have been described in a publication which has been available to the public or inventions which have been officially exhibited (yet cf., § 24) or displayed in other manner to the public and become so well known that those who are versed can make use of them. Publications available to the public do not, in the meaning of this Act, include descriptions of inventions submitted for public display in this State in accordance with § 13 hereof or in a foreign State under a similar provision of Law. Making reservations for reciprocal rights the President may decide that descriptions of Patents officially issued in a foreign State shall not be considered as publications available to the public in the meaning of this Act, until after a specified time. —

§ 2.

Patents should be granted in respect of alterations of inventions previously patented provided these alterations be of sufficient importance in order that they may actually be considered inventions. — Such Patents are called Patents of addition and the text thereof shall in plain terms refer to the original Patent, adding that the Patent of addition

does not grant the patentee the right to utilize the original invention.

§ 3.

An inventor alone or such person as has acquired his rights in a legitimate manner has the right to obtain a Patent. Creditors may not seek fulfillment in the right to a Patent, but this may be done in the right granting a Patent. — When more than one party apply for a Patent for the same or a substantially similar invention, the party first to have applied shall have first option of the Patent.

§ 4.

A Patent shall be granted in respect of a period of 15 years from the date of granting. — When an alteration of a patented invention is made the patentee may obtain a Patent of addition in respect of the alteration and this shall expire with the principal Patent.

§ 5.

No-one may make an occupation of the following without the consent of the patentee: — 1. Manufacturing, importing or offering for sale an article which is patented or prepared by a patented method; or 2. Using the patented method. — The following is, however, permissible having no regard for a Patent: — a) The use of articles accompanying or connected with means of transport from other countries when these come to this country for limited periods, and b) The continued use of articles arrived by and belonging to means of transport which have been purchased abroad for Icelandic currency or for an Icelandic vessel which has broken down at sea and been repaired abroad.

§ 6.

Patents will not be directed against those who have commenced using the invention in this country prior to an application for a Patent being filed or who had thoroughly prepared themselves for so doing. — When a person has used an invention subsequent to a Patent application being filed, he may be sued for trespassing the Patent rights (cf., § 21)

provided he has been aware of the fact that a Patent application has been filed at the time he commenced using the Patent or if he has continued doing so after he has come to know this. When an announcement has been published (cf., § 13) it shall be presumed that it be generally known that the application has been filed.

§ 7.

A fee of kr. 100.00 shall be paid to the Treasury for each Patent in respect of the first 5 years. A fee of kr. 600.00 shall be paid for the next 5 years and for the last 5 years kr. 1200.00. This fee is payable in advance for a period of 5 years at a time.

§ 8.

It shall be decided by Presidential decree that the authorities shall, without the consent of a patentee, have the right to use a patented invention against payment. — When 5 years elapse from the time a Patent is issued without the patentee or others on his behalf working the invention within the State as far as may be reasonably expected, he must hand the Patent to someone else for use in his industry if so required and against payment. — When three years have gone from the date of issue of a Patent, a patentee must permit use of the Patent to a person who holds a more recent Patent in respect of an invention which is of importance for the industry, but which cannot be utilized without the use of the previous Patent, but payment shall be rendered therefore. When such a Patent is granted the owner of the previous Patent is, on the other hand, authorized to use the invention under the subsequent Patent, against payment. — The Ministry shall decide on whether conditions permit the acquisition of rights to use another person's Patent in accordance with this Article. A party thus applying shall pay a fee of kr. 200.00. The Ministry's decision may, within three months of its date, be referred to the Courts as it pertains to the interpretation of the Law on which the decision is based. — This Article does not extend to Patents owned by the administration. — Making reservation for reciprocal rights the President may ne-

gotiate with other States that no legal consequences shall apply although an invention is not brought into operation locally.

§ 9.

The compensation due to a patentee in accordance with § 8 shall be decided by valuation performed by impartial persons provided agreement is not reached. — When this compensation is so decided that a certain amount shall be paid once and for all, it shall be paid prior to the invention being taken into use. — Should a rent be decided upon the valuers shall, if the patentee so requests, also state the date of majority and decide on the security to be placed in respect of prompt payment. — Rent decided by valuation or by the Ministry's decision may be collected by distraint.

§ 10.

The Ministry decide on Patent applications. — Applicants for Patents shall submit the following to the Ministry: — 1. A duplicate application for Patent addressed to the Ministry; 2. A duplicate description of the invention; 3. Also, if necessary, a drawing to explain the description and this shall also be in duplicate; a model or sample shall also be submitted according to circumstances; 4. A declaration stating whether a Patent has been applied for in another State granting Patents after conducting an examination. — Prior to granting the Patent the Ministry may require that a report on the result of application for the Patent in other States be submitted.

§ 11.

The application shall state the name, occupation and domicile of the applicant and the title of the invention as this is expected to be named in the Patent. The applicant shall also state who the inventor is; if it is not himself he must submit satisfactory proof to the effect that he has acquired the rights in a legitimate manner. — The description shall be so clear and complete that those who are versed need no further instructions in order to produce and use the in-

vention. This shall include a clear definition of that which the applicant considers an invention and requires to be protected by the Patent. Drawings shall be clear and durable and such that all main parts mentioned in the description be brought forth thereon, but they shall be marked in the description and drawing with the same letters or figures. — When a person desires to apply for a Patent in respect of more than one invention and each to be independent of the other, he shall apply separately for each invention.

§ 12.

A Patent application shall be accompanied by the applicant's declaration to the effect that he accepts Icelandic legislature in all matters affecting the Icelandic Patent and that he undertakes to stand for defence in the jurisdiction of Reykjavík. Should the applicant not be domiciled in this country or should he shift his domicile abroad without having advised the Ministry of someone domiciled locally and with a power of attorney for him or should such power of attorney expire, all notifications concerning the Patent and summons to Court in this country shall be sent under cover of registered mail addressed to the Ministry for delivery and it shall carry the address of the applicant or his agent abroad in accordance with that stated in the application or subsequently notified to the Ministry. The City Magistrate in Reykjavík*) shall state the notice of summons when issued in this manner.

§ 13.

Should an application for a Patent not be made out in the manner prescribed in § 10—12, the Ministry shall give the applicant suitable notice to improve upon the deficiencies. — When the application is correctly submitted, the Ministry cause the publication of a brief announcement to the effect that the application be received and the announcement shall state the applicant's name, occupation and domicile and the invention shall be named. The application and enclosures shall also be presented for public exhibition at a

*) cf., Law No. 60, March 12th, 1948, § 2.

place specified by the Ministry. The applicant may demand that announcement and exhibition be postponed for 6 months from the date of delivery of the application.

§ 14.

For 12 weeks from the publication of an announcement anyone may approach the Ministry and protest against a Patent being granted whether the protest be based on the absence of conditions in general or it be maintained that the granting of a Patent would conflict with the sole rights of the protesting party. Protests shall be in writing and based on evidence and the applicant shall be offered an opportunity to pass his opinion of it.

§ 15.

Should an applicant previously or simultaneously have filed an application in another State granting Patents after an examination has been performed, then the Patent will generally not be granted until the applicant submits documentary proof to the effect that he has received a Patent in some such State. Should no Patent have been applied for in another State granting Patents after examination, the Ministry shall have an examination performed. The applicant shall pay the cost of the examination.

§ 16.

Should the Ministry reject an application for a Patent, but the applicant not consider the rejection justifiable, he may require the case to be taken for consideration again if he makes a request in this direction to the Ministry within 12 weeks from the time he received the notification of the result and if he explains the renewed application.

§ 17.

Should the Ministry decide that a Patent may be granted, the applicant shall be notified thereof and he shall be advised that he must release the Patent within 3 weeks from the time he received the notification. The Ministry an-

nounce the release of the Patent when this has been completed.

§ 18.

The Ministry keep a register of all Patents issued wherein the main subject and date of each Patent shall be stated, but its validity extends from that time; also the name, occupation and domicile of the patentee and his agent, if any. — When the Patent period expires or the Patent is cancelled or is considered wholly or partially invalidated, this shall be stated in the Patent register. — It shall also be stated in the register when the Ministry receive a notification concerning documentary evidence to the effect that a Patent has been endorsed to another or the agent has been changed. While such announcement has not been made a summons concerning the Patent may be made against the former patentee or agent. — Anyone may consult the Patent register and the applications, descriptions and other matter concerning Patents granted.

§ 19.

The Ministry's announcements concerning Patents shall be published in the Gazette carrying official announcements.

§ 20.

Should someone consider a Patent to infringe his right or contradict § 1, clause 4 of this Act and that the Patent should, therefore, not have been granted or this should have been done within narrower limits than has been done, he may issue a summons in order to have the Patent invalidated in the patentee's or agent's venue or where agreed in this State, cf., § 12. — Every time it is decreed that a Patent shall be annulled or cancelled the Court shall pass a copy of the judgement to the Ministry.

§ 21.

Anyone infringing the rights granted by a Patent (§ 5) must compensate the infringed party for the total loss suffered in accordance with general rules concerning compen-

sation. The articles illegally imported, manufactured or offered for sale shall be delivered should the party demand it, but the cost of these shall be paid or deducted from the amount of compensation. A party wilfully infringing Patent rights shall also be subject to a fine of up to kr. 2000.00 for the first violation and up to kr. 4000.00 or imprisonment up to 2 years in case of repeated violations.*) The fines shall go to the Treasury.

§ 22.

Cases brought in order to effect punishment in accordance with § 21 shall be dealt with as Private Police Cases.**)
— Should it be maintained that the Patent has been annulled or invalidated this shall be judged provided the conviction or acquittal of the accused be dependent thereupon. — Both punishment and compensation are annulled if no summons is produced for infringement within a year from the time the patentee became aware of it or within three years from the occurrence of it.

§ 23.

This Law does not extend to Patents granted in accordance with rules hitherto in effect. — Applications for Patents which have been filed but not dealt with prior to this Law entering into effect shall be subject to the rules hitherto applicable and Patents shall be granted in accordance therewith.

§ 24.

When an invention has been displayed at an Icelandic exhibition or at an international exhibition held in this country, the inventor may demand a Patent for it within six months from the time the invention was placed at the exhibition quite apart from the fact whether the invention has during that period been described or used as stated in clause 4 of § 1. The President may decide that this shall also be applicable to inventions displayed at international exhibitions in

*) Law No. 19, February 12th, 1940.

**) Law No. 85, June 23rd, 1936, § 224.

another State. — The following may be decided by a Presidential decree: — 1. That anyone who has applied for a Patent in respect of an invention in other States than those specified may demand a Patent for that invention in this country provided he applies for it within 12 months from the time the first application was filed even though the invention has been described or used as stated in clause 4 of § 1, during that period. 2. That an application thus filed in this country shall be so disposed toward other applications as if it had been filed at the time this was done for the first time in another State.

§ 25.

The Ministry may by a Regulation*) make further decrees concerning applications for and issue of Patents, the arrangement and subject of deeds, payment of Patent fees and costs of examination of Patents. The Regulation may decide that applicants of poor means may be exempted from costs of examination, cf., § 15, if the Ministry consider there to be reason for so doing.

*) Cf., Regulation No. 74, December 7th, 1923 and Regulation No. 4, January 4th, 1944.